

Application No. 10/582,940
Attorney Docket No. 292106US0PCT
Response to Official Action dated June 11, 2008

REMARKS

Claims 16-36 are currently pending in the present application. Claims 34-36 stand withdrawn from consideration by the Examiner as being directed to a non-elected invention.

Applicants wish to extend their appreciation to Examiner Mi for withdrawing the rejection of claims 16-18, 32 and 33 under 35 U.S.C. § 102(b) in response to the Pre-Appeal Brief Request for Review filed on September 11, 2008.

The rejection of claims 16-33 under 35 U.S.C. § 103(a) as being obvious over Noble (U.S. Patent 5,484,611) in view of McCleary (U.S. 2002/0182196) and Bydlon (U.S. 2003/0050341) is respectfully traversed.

Claim 16 is directed to a composition comprising the following two separate and distinct components: (1) a phospholipid having an n-3 polyunsaturated fatty acid constituent selected from the group consisting of docosahexaenoic acid, docosapentaenoic acid and eicosapentaenoic acid; and (2) α -linolenic acid and/or an oil comprising α -linolenic acid. Noble, McCleary and Bydlon, when considered alone or in combination, fail to disclose or suggest the claimed composition. Even if sufficient motivation and guidance is considered to have been provided by Noble, McCleary and/or Bydlon to arrive at the claimed composition, which is clearly not the case, such a case of obviousness is rebutted by a showing of superior properties and secondary considerations. As shown by the comparative experimental data presented in Table 1 of the present specification, the composition in accordance with the present invention remarkably exhibited superior properties with respect to enhanced systemic absorption of n-3 polyunsaturated acids into blood and tissue, as compared to the inferior properties exhibited by the conventional composition.

Claim 16 is directed to a composition comprising the following two separate and distinct components: (1) a phospholipid having an n-3 polyunsaturated fatty acid constituent selected from the group consisting of docosahexaenoic acid (DHA), docosapentaenoic acid and eicosapentaenoic acid; and (2) α -linolenic acid and/or an oil comprising α -linolenic acid.